

AMENDMENT NO. \_\_\_\_\_

\_\_\_\_\_  
**Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 379**

**House Bill No. 47\***

by deleting all language following the enacting clause and substituting instead the following:

**SECTION 1. Definitions.** As used in this act the following definitions apply:

(a) "Attorney general" means the district attorneys general and their assistants.

(b) "Financial transaction" means a purchase, sale, loan, pledge, contract, gift, payment, and also includes a withdrawal, transmission of funds, transfer between accounts, or deposit, of monetary or negotiable instruments, funds or an exchange of any other property, including, but not limited to, currency, precious metals, stones, or jewelry, tickets, stamps, or credit in a financial institution.

"Financial transaction" shall not include:

(1) Any transaction conducted, or attempted, at the request of or in cooperation with any local, state or federal law enforcement official with regard to any person acting at the request of or cooperating with such official when such person knows that the official is making an official request.

(2) Any transaction conducted by a person, corporation, or financial institution, in the ordinary course of business, with a duty to comply with any state or federal currency transaction reporting or recording requirements, unless such person, corporation or financial institution shall intentionally violate or circumvent such state or federal currency transaction reporting or recording requirements, but only as to such person, corporation or financial institution.

(3) Any transaction conducted, or attempted, by a person, corporation or financial institution, in the ordinary course of business, which is deemed by the person,

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corporation or financial institution to be a suspicious transaction or transactions, whether reportable or not under any state or federal currency transaction reporting or recording requirements, where:

(i) Such person or corporation reports such suspicious transaction, or a similar transaction conducted previously, to any local, state or federal law enforcement official and such report would not violate any attorney-client privilege; or

(ii) In the case of a financial institution, the financial institution reported the transaction, or a related transaction conducted previously, to the institution's primary regulator or to another regulator or law enforcement official pursuant to the directions of the institution's primary regulator; but only with regard to the person, corporation or financial institution making the report.

(4) Bona fide legal fees received by a licensed attorney.

(c) "Knowingly uses or attempts to use proceeds derived directly or indirectly from a specified unlawful activity" means that any person or party to the transaction or act knew that the property or proceeds involved in the transaction or act represented or constituted, either in whole or in part, proceeds from some form, though not necessarily which form, of any criminal offense under the laws of this state, or any other jurisdiction. Provided, however, a person, corporation or financial institution, receiving funds or property in the ordinary course of business shall not have "knowledge" that the funds or

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property so received represented proceeds of any specified unlawful activity solely  
because of:

(1) The identity or reputation of the transferor of the funds or  
property; or

(2) The identity or reputation of an associate of the transferor.

(d) "Property" means anything of value, and includes any interest in property,  
including any benefit, privilege, claim or right with respect to anything of value, whether  
real or personal, tangible or intangible.

(e) "Specified unlawful activity" means any act, including any preparatory or  
completed offense, committed for financial gain that is punishable as a felony under the  
laws of this state, or if the act occurred outside this state, would be punishable by  
confinement for more than one (1) year under the laws of the state in which it occurred;  
and

(f) "Uses" and "conducts" mean initiating, concluding, participating, negotiating,  
or aiding or abetting in such initiating, concluding, participating or negotiating, or any act  
of concealment.

## **SECTION 2. Criminal Penalties.**

(a)

(1) It is an offense to knowingly use, conspire to use, or attempt to use  
proceeds derived directly or indirectly from a specified unlawful activity to  
conduct or attempt to conduct a financial transaction or make other disposition

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with the intent to conceal or disguise the nature, location, source, ownership, or control of the criminally derived proceeds.

(2) A violation of this subsection is a Class B felony.

(b)

(1) It is an offense to knowingly use proceeds derived directly or indirectly from a specified unlawful activity with the intent to promote, in whole or in part, the carrying on of a specified unlawful activity.

(2) A violation of this subsection is a Class B felony.

(c)

(1) It is an offense to knowingly conduct, conspire to conduct, or attempt to conduct a financial transaction or make other disposition involving property or proceeds represented by a law enforcement officer, or by another at the direction of a law enforcement officer, to be the property or proceeds derived from a specified unlawful activity with the intent to conceal or disguise the nature, location, source, ownership, or control of the criminally derived proceeds or with the intent to promote the carrying on of a specified unlawful activity.

(2) A violation of this subsection is a Class B felony.

**SECTION 3. Joinder of Offenses.** A defendant charged with a violation of one (1) or more offenses within Section 2 of this act may also be jointly charged, tried, and convicted in a single prosecution for committing any related specified unlawful activity, which shall be separately punished.

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SECTION 4. **Jurisdiction and Venue.** Venue in a criminal prosecution under this act shall be either in the county where one (1) or more elements of the underlying specified unlawful activity occurred, or in the county where one (1) or more elements of a violation of Section 2 occurred or was attempted.

SECTION 5. **Criminal Intent.** (a) In a prosecution for an offense under this act, the state is not required to prove that the defendant actually knew that the property or proceeds were derived from a specified unlawful activity, so long as the defendant knew that the property or proceeds were derived from some form of criminal activity.

(b) A corporation, the board of directors or the executive officers shall not be responsible for the criminal acts of the corporation's employees, provided that the corporation has exercised due diligence to prevent such criminal acts. For purposes of this act, a corporation shall be deemed to have exercised due diligence if the criminal acts committed by its employees are in violation of specific corporate policy or instructions, such corporate policy or instructions were communicated to the employees who committed the criminal acts, the corporation had implemented monitoring or supervision procedures reasonably designed to detect violations of its corporate policy or instruction, and the board of directors and executive officers of the corporation acted in good faith.

SECTION 6. **Evidence.** In a prosecution under this act, either party may introduce the following evidence pertaining to the issue of whether the property or proceeds were known to be from some form of specified unlawful activity:

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(a) that a financial transaction was conducted or structured in violation of the reporting requirements of any state or federal law;

(b) that money or any negotiable instrument was found in proximity to contraband or instrumentalities of an offense;

(c) that a financial transaction was conducted with the use of a false or fictitious name; or

(d) that a financial transaction was structured so as to falsely report the actual consideration or value of the transaction.

**SECTION 7. Assistance By Other Agencies.** The attorney general may authorize any governmental department or agency of this state, any political subdivision thereof, or any other state or federal government to participate in the investigation into the conduct giving rise to a criminal offense under this act.

**SECTION 8. Use Of Investigative Grand Jury.** Tennessee Code Annotated, Section 40-12-201, is amended by adding the following new item (1) to subsection (a) and by renumbering subsequent items accordingly:

(1) Section 2 of Senate Bill 379, House Bill 47, relating to money laundering;

**SECTION 9. Title.** This act shall be known as the "Money Laundering Act of 1996".

**SECTION 10. Effective Date.** This act shall take effect on July 1, 1996, the public welfare requiring it.